

TESTIMONY SUBMITTED BY ATTORNEY LINNEA LEVINE, PRESIDENT OF
THE CONNECTICUT CHAPTER OF THE NATIONAL ACADEMY OF ELDER LAW ATTORNEYS
TUESDAY FEBRUARY 25, 2014
BEFORE THE AGING COMMITTEE IN SUPPORT OF

RAISED BILL No. 177- AN ACT CONCERNING A
COMMUNITY SPOUSE'S ALLOWABLE INCOME

BILL NO. 177 would permit the well spouse of a person receiving long term care benefits under Medicaid who is either residing in a nursing home or residing at home with the well spouse to keep the maximum assets permitted under federal law in order to help the well spouse pay for uncovered medical expenses, personal expenses, taxes, insurance and the like.

I am speaking to you on behalf of the Connecticut Chapter of the National Academy of Elder Law Attorneys, Inc., a chapter of the National Academy of Elder Law Attorneys, Inc. ("NAELA"). NAELA is a non-profit association whose mission is to provide legal advocacy, information and education to attorneys, bar associations and others who deal with the many specialized issues involving the elderly and individuals with special needs. The Connecticut chapter of NAELA presents this written and oral testimony in support of the proposed BILL NO. 177.

1. BACKGROUND

Pursuant to federal law the spouse, who is either a Medicaid nursing home recipient or a Medicaid home care waiver recipient, is guaranteed to protected amount of assets. Each state may elect an amount which in 2014 ranges from a minimum of \$23,449.80 to a federally protected maximum of \$117,240.00. Connecticut has elected the minimum federally amount of \$23,229.80 while other New England states have elected the maximum.

In Connecticut, when a married couple applies for long term nursing home or home care benefits under Medicaid, the community spouse is allowed to keep 50% of the couple's assets but no more than \$117,240.00. The amount the community spouse can keep is called the "Community Spouse Protected Amount" ("CSPA"). The term countable assets include essentially anything other than the house, a car, clothing, and basic necessities. It even includes retirement accounts like IRAs, 401(k)s and the like. In other words, the community spouse is expected to be able to survive for the rest of his or her life on nothing more than a maximum of \$117,240.00 and any income he or she may receive.

2. EXAMPLES

Consider these examples. We will assume in both, that the husband is the institutionalized, or ill, spouse and the wife is the community, or well, spouse.

In Example #1, assume that a couple's countable assets on the date of institutionalization are \$50,000.00. Under our current law, the community spouse is allowed to keep 50% or \$25,000.00. Under the proposed law the community spouse would be allowed to keep \$50,000.00.

In Example #2, assume that a couple's countable assets on the date of institutionalization are \$125,000.00. Under current law, the community spouse is allowed to keep 50% or \$62,500.00. Under the proposed law the community spouse would be allowed to keep the maximum or \$117,240.00.

Whether the "spend down" amount is \$25,000 or \$62,500, why force the community spouse, who has meager savings to begin with, to spend down unnecessarily and imperil his or her long term welfare? How can a spouse, residing in the community, deal with emergencies such as Storm Sandy, Hurricane Irene, her own declining health issues, or need for assistance with house-keeping or shopping as she ages in place? Impoverishment to the point where it is financially impossible for the spouse to remain in the community is often the deciding factor of whether the spouse of a Medicaid recipient can age in place at home, or must seek an earlier entry to a nursing home with the government paying her long term care costs. Both the spouse and the government lose when impoverishment is a primary reason to seek institutionalization.

3. BILL NO. 177 BENEFITS Personal Choice- Home Care Preference

BILL NO. 177 encourages the personal choice of aging in the community versus sending the ill spouse to a nursing home. The Connecticut home care programs not only support the choice of dignity at home, these programs save money for the State of Connecticut. Yet, if the ill-spouse chooses home care, the well-spouse now has to cover the additional cost of such things for the ill spouse as food, utilities, uncovered personal hygiene items, doctor visits, personal clothing, and household items. If the ill spouse is receiving care in a nursing home, these items are covered and do not further deplete the well-spouse's limited resources.

BILL NO. 177 allows the community spouse to retain a small amount of additional resources to live on FOR FUTURE NEEDS instead of having to spend down the excess resources in order for his or her spouse to receive Medicaid care.

4. BILL NO. 177 ADDRESSES A WOMEN'S ISSUE

While Connecticut's election of the minimum protected CSPA amount affect both men and women, it is particularly a women's issue since women live longer than men and generally serve as their husband's care giver for several years before the husband qualifies for Medicaid.

5. CONCLUSION

Give Connecticut Seniors and persons with disabilities a truly personal choice of living in the community and being able to afford to do so for the remainder of both spouses' lifetimes.

Thank you all for your service to our State and for your time and attention to meeting the pressing needs of our ill and impoverished citizens.

Sincerely,

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